In the Supreme Court

OF THE

United States

OCTOBER TERM, 1969

Office-Supreme Court, U.S.
FILED
AUG 1 51969
JOHN F. DAVIS, CLERK

No. 301

LOREN J. PIKE, as Supervisor of Inspection, Arizona Fruit and Vegetable Standardization Service,

Appellant,

vs.

BRUCE CHURCH, INC., a California corporation,

Appellee.

On Appeal from the United States District Court for the District of Arizona

OBJECTION TO MOTION OF WESTERN GROWERS ASSOCIATION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

JACOB ABRAMSON,
315 Crocker Citizens Bank Building,
Salinas, California 93901,
Attorney for Appellee.

EVANS, KITCHEL & JENCKES,
336 North First Avenue,
Phoenix, Arizona 85003,

ABRAMSON & CHURCH,
315 Crocker Citizens Bank Building,
Salinas, California 93901,
Of Counsel.

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1969

No. 301

LOREN J. PIKE, as Supervisor of Inspection, Arizona Fruit and Vegetable Standardization Service,
Appellant,

vs.

BRUCE CHURCH, INC., a California corporation,
Appellee.

On Appeal from the United States District Court for the District of Arizona

OBJECTION TO MOTION OF WESTERN GROWERS ASSOCIATION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

Appellee, subject to its Motion to Dismiss or Affirm herein, hereby files its Objection to the Motion of Western Growers Association for Leave to File Brief as Amicus Curiae, under the provisions of Supreme Court Rule 42. The grounds for Appellee's Objection are set forth below.

The rules of this Court declare that motions for leave to file briefs amicus curiae are not favored by the Court (Rule 42, paragraph 1) and that any such motion must in any event satisfy certain express requirements, including a concise statement of the nature of the applicant's interest, a setting forth of the facts or questions of law that have not been, or reasons for believing that they will not adequately be, presented by the parties, and their relevancy to the disposition of the case.

It was in light of these requirements that consent to the filing of a brief amicus curiae by Western Growers Association (hereinafter referred to as "Western") was withheld. The declination to consent was not that of the "attorney for the Appellee", as stated by Western, but of the Appellee itself, communicated through its attorney.

The declination was not an arbitrary one, but was based on the conviction that the above requirements of this Court are not met in this case.

Appellee's reasons for so concluding are the following:

1. All the facts and questions of law which have a bearing on the matter before the Court have been fully presented by the parties to the case in a carefully and deliberately prepared Stipulation of Facts, supplemented by deposition proceedings of principals in the case, by lengthy and thorough briefs and counterbriefs of the parties going into all the legal and factual aspects of the case, by full and complete hearings before the three-judge court during which the facts and issues were carefully explored between Court and counsel, and by two motions for rehearing filed by Appellant.

In light of this prodigious effort on the part of counsel and Court, it is inconceivable that there are facts or issues bearing on the case which have not been presented to the Court or that there are reasons for believing that they would not adequately be so presented.

2. Among the matters fully explored in this case are not only the Statute of Arizona directly involved, but also the California Fruit, Nut and Vegetable Standardization Act in which Western expresses an interest. Indeed, the latter Act entered into the Stipulation of Facts of the parties and was the subject of detailed discussion and reference in briefs of both parties. See, for example, Plaintiff's Opening Brief, pages 13, 19, 35 and 36; Defendant's Opening Brief, pages 39-46; Plaintiff's Reply Brief, pages 17-19; Defendant's Reply Brief, pages 19-21. Indeed, Plaintiff's Opening Brief contained a clause-by-clause comparison of the Arizona and California statutes, including those provisions of the California law listed in the Appendix to Western's Motion.

All of this material is part of the record before this Court, and we seriously question whether there is anything of material significance which remains to be added. Certainly, Western's Motion does not make any showing that there is anything of material significance to be added. The Motion does not address itself to the record already before the Court, and the statements contained therein must be regarded only as general statements unrelated to the work and effort already expended by the parties in relation to the record which they have presented to the Court. It may be noted that the State of California, although it has had full knowledge of these proceedings, has

not deemed it necessary to intervene in the case or ask to file brief as amicus curiae.

3. Appellant's case—the side of the case which Western favors—has been presented to this Court by the Attorney General of the State of Arizona, the highest legal officer of the State. He has had at his disposal and assisting him an entire legal staff and governmental and official access to all sources of factual information and data, to administrative practices, to governmental reports, and to legal authorities and precedents.

Furthermore, the Attorney General has had assisting him as Special Counsel eminent attorneys of the State of Arizona.

It appears further, as disclosed by Appellant's jurisdictional Statement, that on the trade association level Appellant and his counsel have had the aid and assistance of the Arizona Vegetable Growers Association. In the footnote on page 23, Appellant states "Both before the lower court, and also before this Court, counsel for the Arizona Vegetable Growers Association have been associated with the State Attorney General's office, at the expense of the Arizona Vegetable Growers Association . . ." Western's motion indicates that many of its members are parties who are members of the Arizona Association.

Under the circumstances, Appellee fails to see that Appellant is in need of assistance to present his case fully. Indeed, it is apparent from his Juridictional Statement that he has fully covered the ground so far as his case is concerned, and the arguments of Appellee in response thereto are set forth in the Motion to Dismiss or Affirm,

to which reference is made herein. Certainly Western's motion and argument disclose no new facts or issues which would have a material bearing on the case. Nothing has or would prevent Western from counselling with and/or assisting Appellant if such is its desire, just as the Arizona Vegetable Growers Association has apparently done, without the added burden to Court and counsel of additional briefs involving extra time and expense for all concerned.

CONCLUSION

For the foregoing reasons, Appellee objects to the Motion of Western Growers Association for Leave to File Brief as Amicus Curiae, and respectfully urges that this Honorable Court deny said Motion.

Dated, August 15, 1969.

Respectfully submitted,

JACOB ABRAMSON,

Attorney for Appellee.

EVANS, KITCHEL & JENCKES,

ABRAMSON & CHURCH,

Of Counsel.